

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Y.Z.Y., INC.,

Opposer,

v.

U.S. PERFUME HOUSE, INC.

Applicant.

Opposition No. _____

Appln. Serial No. 76/017,715

Mark: SILVER JEANS

NOTICE OF OPPOSITION

Assistant Commissioner for Trademarks; Attention TTAB
P.O. Box 1451
Alexandria, Virginia 22313-1451



07-15-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #77

Sir:

Y.Z.Y., Inc., a corporation duly organized and existing under the laws of the State of Florida, located and doing business at 6300 N.W. 72nd Avenue, Miami, Florida 33166 ("Opposer"), believing that it will be damaged by registration, hereby opposes Application Serial No. 76/017,715, filed April 5, 2000, under the Trademark Act of 1946, in the name of U.S. Perfume House, Inc., published for opposition in the Official Gazette of July 5, 2005, at Page TM 401, for the mark SILVER JEANS.

The grounds of Opposition are as follows:

1. The Opposer, Y.Z.Y., Inc., is a corporation duly organized and existing under the laws of the State of Florida, located and doing business at 6300 N.W. 72nd Avenue, Miami, Florida 33166.
2. Commencing long prior to Applicant's filing date, Opposer has engaged, and is now engaged, in the sales and distribution of, among other things, perfumes and similar fragrances.

3. Commencing since on or about September, 2004, Opposer has used the trademark SILVER JEANS in commerce of the United States in connection with the sales and distribution of perfume goods through a contractual relationship with the manufacturer of the subject goods, EuroArt, a entity located in Tunisia.
4. The contractual relationship alleged in Paragraph 3 above is an exclusive distributorship given to Opposer by EuroArt for the trademark SILVER JEANS for perfume goods.
5. Since its initial use of the SILVER JEANS mark, Opposer has made a substantial investment in selling, distributing and promoting the perfume goods under the trademark SILVER JEANS. Opposer has extensively used, promoted, and offered Opposer's perfume goods bearing the SILVER JEANS mark to the public through various channels of trade in commerce, with the result that Opposer's customers and the public in general have come to know and recognize SILVER JEANS as Opposer's mark and associate it with Opposer and/or goods provided by Opposer. Opposer has built extensive goodwill in connection with the sales and service of goods under its marks, and the mark SILVER JEANS.
6. Prior to September, 2004, EuroArt, upon information and belief, sold perfume goods under the mark SILVER JEANS to Applicant for distribution in commerce of the United States.
7. On or before September, 2004, EuroArt ceased selling perfume goods under the mark SILVER JEANS to Applicant.
8. Since on or before September, 2004, Applicant has had no right to sell genuine perfume goods under the trademark SILVER JEANS in commerce of the United States.
9. On April 5, 2000, Applicant filed an application for registration of the SILVER JEANS trademark for perfume. Said application was assigned Serial No. 76/017,715, and was

published for Opposition in the Official Gazette of July 5, 2005, at Page TM 401.

10. Applicant's claim of right to the mark SILVER JEANS as set forth in its application no longer exists.
11. Applicant's continued use of the mark SILVER JEANS, or a simulation or colorable imitation of, so resembles Opposer's exclusive distributorship rights to the SILVER JEANS trademark as to be likely, when applied to the goods of the Applicant, to cause confusion or mistake or to deceive purchasers or users resulting in damage and detriment to Opposer and its reputation.
12. Upon information and belief, Opposer's and Applicant's goods will be provided and offered through the same channels of trade and consumed by the same general class of users and consumers.
13. Upon information and belief, the *bona fide* of Applicant's present use is not apparent from the materials of record in the subject application, and Opposer therefore challenges the same and leaves the Applicant to its proofs with regard to the nature and sufficiency of its use at the present time.
14. Opposer, upon information and belief, avers that its customers and users, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's goods marketed under Applicant's alleged SILVER JEANS trademark and misled into believing that such goods are produced by, emanate from, or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and its reputation.
15. Opposer, upon information and belief, avers that it will be damaged by the registration by

Applicant of the alleged trademark, as set forth in the Applicant's trademark application Serial No. 76/017,715, in that the mark is substantially similar to Opposer's use of SILVER JEANS and common law rights and will be used in connection with goods closely related, if not identical, to the goods offered to the public by Opposer.

WHEREFORE, this Opposer, Y.Z.Y., Inc., believes and avers that it is being and will continue to be damaged by the registration of the SILVER JEANS trademark as aforesaid, and prays that said Application Serial No. 76/017,715 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in all respects in favor of Opposer.

Opposer has appointed Richard S. Ross, Esq., a member of The Florida Bar, to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

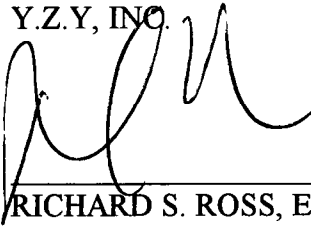
Richard S. Ross, Esq.
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The filing fee for this opposition in the amount of \$300.00 is enclosed herewith.

Respectfully submitted,

Y.Z.Y, INC.

By:


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Date: 7/11/05